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March 28, 1996

The Honorable Reed Hundt
Chairman
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20054

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: Microwave Relocation; WT Docket No. 95-157;
March 1 Letter from Thomas E. Wheeler

Dear Chairman Hundt:

On March 1, 1996, Thomas E. Wheeler, President of the Cellular Telecommunications Industry Association (CTIA), sent you and the other four Commissioners a letter in which he accused the Union Pacific Railroad of serious misconduct in connection with negotiations involving relocation of our 1.9 GHz microwave facilities. I wish to advise you that Mr. Wheeler's allegations and charges against Union Pacific are completely false.

In his March 1 letter, Mr. Wheeler accused Union Pacific of "extortion," "bad faith," and "outlandish" and "irresponsible" behavior regarding our negotiations with one of CTIA's members, Sprint Spectrum. More specifically, Mr. Wheeler claimed that Union Pacific had requested \$46,250,000 from Sprint to relocate 24 microwave links, and that, of this total amount, only \$6 million was "fair" and the remaining \$40,250,000 was "extortion" money. This is not true.

The record shows (and Sprint's own documents confirm) that the \$46,250,000 figure was for all 185 links in our entire system at 1.9 GHz, not merely the 24 links claimed by Mr. Wheeler. Importantly, Sprint itself prepared a system-wide relocation proposal for Union Pacific which addressed all 185 links and, in a letter dated December 14, 1995, stated that Sprint "understands" Union Pacific's desire for a "systemic solution." The \$46,250,000 figure quoted in the CTIA's March 1 letter is based on 185 links at a per-link cost of \$250,000, which was recognized as a fair average per-link cost not only by the Commission but by CTIA, as well. It is simply the mathematical result of multiplying 185 links (which Sprint itself acknowledged as the appropriate number in its December 14 letter proposing a system-wide relocation solution) by the average per-link cost of \$250,000. Thus, contrary to Mr. Wheeler's false and deceitful characterization, the \$46,250,000 figure is not an "outrageous" demand; it is not "outlandish;" it is not "greedy;" and it is not, most emphatically, "extortion."

Accompanying Mr. Wheeler's March 1 letter was documentation prepared by Sprint (or Sprint's agents) in which Sprint's characterization of Union Pacific was just as false and misleading as Mr. Wheeler's. In the document dated 2/23/96, Sprint called Union Pacific a "bad actor," and gave the impression that Union Pacific had not responded to Sprint's proposal and that negotiations had broken off. Again, this is simply not true. In fact, Union Pacific has continued its discussions with Sprint, although we are not at liberty to disclose the nature of those discussions because of a confidentially agreement which Union Pacific considers binding and which it intends to honor.

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I cannot over-emphasize the importance of a systemic approach to our microwave relocation. Union Pacific's 185 paths in the 1.9 GHz band are used for controlling train operations throughout the entire Union Pacific rail network, which covers most of the Midwest and Western portions of the U.S. The microwave system carries critical, safety-related communications that are integral to the minute-to-minute controlling and routing of trains, including dispatcher communications, train signals and track switching. Because of the safety-critical nature of the communications carried on our microwave system, our number one priority is reliability -- a communications failure in railroad operations is not merely an inconvenience; it carries significant safety risks. Replacing portions of the system on a piecemeal, haphazard, link-by-link basis would compromise overall system integrity, reliability and safety, a result that we simply cannot accept. With a microwave network as large and far-flung as ours, a patchwork of different technologies -- including dissimilar types of equipment from varying manufacturers, multiple and varied test protocols and diverse maintenance procedures -- inevitably will result in greater system complexity, decreased reliability and increased risk of system failure.

The need for maintaining the integrity of entire networks was recognized by the Commission when it proposed a cost-sharing plan whereby the licensees of various PCS spectrum blocks and geographic markets would be required to share in the expense of system-wide relocations. Indeed, the desirability of system-wide microwave relocations was acknowledged by Sprint in its comments filed in WT Docket No. 95-157, where Sprint stated that systemic relocations "can be, in the long run, more spectrum efficient, less costly and less disruptive."

Union Pacific urges the Commission to adopt a cost-sharing plan to facilitate systemic microwave relocations. Of equal importance, the Commission should adopt rules requiring existing PCS licensees -- presently the A and B licensees -- to participate jointly in relocation negotiations with incumbents and to share in system-wide relocation costs, subject to reimbursement later by PCS licensees in subsequent spectrum blocks, including the C block licensees.

In conclusion, I wish to reiterate our very strong concern about the misrepresentations contained in Mr. Wheeler's March 1 letter and the false and misleading manner in which Union Pacific was portrayed. Contrary to Mr. Wheeler's characterization, Union Pacific has negotiated in good faith from the very outset with Sprint and other PCS licensees. We recognize that the Commission has concluded that the use of the 1.9 GHz spectrum for PCS service is in the public interest, and that inauguration of PCS service requires that incumbent microwave users vacate the band. We have attempted as best we can to accommodate the FCC's goal of expediting PCS service to the public. However, we must point out that the Commission's present rules do not encourage an efficient resolution of system-wide relocation issues. For this reason, we encourage the Commission to adopt a cost-sharing plan and a procedure that will require A and B block licensees to share in the responsibility for systemic relocations.

Sincerely,



G. Lynn Andrews

Asst. Vice President Telecommunications

cc: Commissioner James Quello
Commissioner Andrew Barrett
Commissioner Rachelle Chong
Commissioner Susan Ness
Michele Farquhar

Rosalind Allen
Thomas E. Wheeler
Ronald T. LeMay